THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25399 of 2006

Dated 18.12.2006

Between:

M/s Sunder Holiday Resorts India Ltd., rep. by its Secretary, Ratnagiri Resorts Unit, Annavaram, East Godavari District.

… Petitioner

And

The Government of Andhra Pradesh, rep. by its Secretary, Revenue Department, Hyderarbd, and others.

… Respondents

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ORDER:

The petitioner is an incorporated company. It is a unit of Ratnagiri Resorts, Annavaram. The petitioner is owner of land in survey No.408 of Bendapudi Village, Thondangi Mandal, East Godavari Disttrict, which is partially hilly land with gravel and rocky portions. It is the case of the petitioner that some of the local newspapers published a news story that the petitioner company encroached into the temple lands belonging to Sri Satyanarayana Swamy temple, Annavaram, and also purchased D-Form patta lands. Considering the complaint, a notice dated 10.07.2005 was issued to the petitioner by respondent No.8 to stop the works. The petitioner alleges that respondent No.5 conducted survey and confirmed that there are no Government lands or D-Form patta lands in the possession of the petitioner. In spite of the same, respondent No.8 issued a show-cause notice dated 16.08.2005 calling upon the petitioner to show-cause as to why action should not be initiated for the unauthorized excavation and dispatch of building stone and gravel and as to why a sum of Rs.15,63,375/- should not be recovered. The petitioner allegedly appeared before respondent No.8 and submitted explanation denying the allegations. At that stage, on the advise of the staff of respondent No.8, the petitioner also made an application for quarry lease for building stone and gravel. In spite of the same, respondent No.8 issued another

show-cause notice dated 05.11.2005 directing the petitioner to submit explanation for the alleged further illegal quarry of 119 cubic meters of building stone and 171 cubic meters of gravel. The petitioner then submitted explanation. Respondent No.8 again issued another show-cause notice but no orders are passed. In the meanwhile respondent No.7 rejected the application of the petitioner for quarry lease by proceedings dated 28.11.2006 and respondent No.8 is proceeding to recover the amount for the alleged illegal quarry under the Andhra Pradesh Revenue Recovery Act, 1864. Aggrieved by the same, instant writ petition is filed.

The learned counsel for the petitioner, at the stage of preliminary hearing on 15.12.2006, contended that though show-cause notice was issued to which reply was sent by the petitioner, the orders of respondent No.8 passed under Rule 26 of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (the Rules, for short) has not been served on the petitioner and therefore, the petitioner could not avail the effective remedy provided under Rule 35 of the Rules. Having regard to this, the learned Assistant Government Pleader for Mines and Geology was directed to produce the file from the office of respondent No.8. Accordingly file No.3532/Q/2005 has been produced before this Court. At page 81 of the file, notice/order under Rule 26 (3) (ii) of the Rules calling upon the petitioner to pay Rs.16,59,900/- towards normal seigniorage fee together with ten times penalty has been found and at pages 83 and 84, the acknowledgement sent to Sri S.V. Bhyrava Murthy (deponent of the writ affidavit) of Ratnagiri Resorts has been found, which would certainly belie the allegation that the copy of the order of respondent No.8 is not served on the petitioner.

Now that the file produced before this Court shows that respondent No.8 passed orders under Rule 26(3)(ii) of the Rules directing the petitioner to pay normal seigniorage fee as well as penalty for the alleged illegal quarry of building stone and gravel, the petitioner may avail the alternative remedy under Rule 35 of the Rules by filing an appeal before the Director of Mines and Geology. The petitioner is also given liberty to approach respondent No.8 and obtain copy of the order passed under Rule 26(3)(ii) of the Rules. In this writ petition, no relief can be granted.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

18th December, 2006
ghn